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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/524,872	02/14/2005	Peter Mori	GLN-058US	2984
26003	7590	03/28/2006	EXAMINER	
VAN TASSEL AND ASSOCIATES POST OFFICE BOX 2928 BELLAIRE, TX 77402-2928			VON BUHR, MARIA N	
			ART UNIT	PAPER NUMBER
			2125	

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/524,872	MORI ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Maria N. Von Buhr	2125	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 February 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                                               |                                                                                         |
|-----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                                                   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                                          | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>20050214</u> . | 6) <input type="checkbox"/> Other: _____                                                |

**DETAILED ACTION**

1. This application is a continuation of Application Serial No. PCT/CH03/00505 and is, therefore, accorded the benefit of the earlier filing date of 25 July 2003.
2. Examiner acknowledges receipt of Applicant's preliminary amendment, received 14 February 2005; which amends claims 4, 5 and 7, and introduces claims 9-20. Claims 1-20 are now pending in this application.
3. Receipt is acknowledged of papers submitted under 35 U.S.C. §119(a)-(d), which papers have been placed of record in the file.
4. Examiner acknowledges receipt of Applicant's information disclosure statement, received 14 February 2005, with accompanying reference copies. This submission is in compliance with the provisions of 37 CFR §1.97. Accordingly, it has been taken into consideration for this Office action.
5. Examiner acknowledges receipt of Applicant's formal drawings. These drawings are acceptable.
6. The specification is objected to, because the phrase "bayonet articulation" is not understood, because it is not well-known in the art and Applicant has provided no definition/description of such an element.
7. The following is a quotation of the first paragraph of 35 U.S.C. §112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.
8. Claims 4, 9 and 10 are rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The limitation "bayonet articulation" has not been defined nor described in a manner which is readily understandable to one having ordinary skill in the art, since as noted above, in the objection to the specification, such a phrase is not well-known in the art and Applicant has provided no definition/description of such an element.

9. The following is a quotation of the second paragraph of 35 U.S.C. §112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which Applicant regards as his invention.

10. Claims 1-20 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention.

In claim 1, the term "intended" has no clear metes and bounds, since it is not a positive recitation of function. Also, there is no clear and proper antecedent basis for "the treatment."

In claim 2, the term "intended" has no clear metes and bounds, since it is not a positive recitation of function. Also, the first three lines of the claim are unclear with regard to whether another "electronic memory" is being introduced, or the already existing memory is further storing "safety data." In addition, there is no clear and proper antecedent basis for "said/the data," since two different data have been previously presented.

In claims 4, 9 and 10, "bayonet articulation" is not understood. Also, there is no clear and proper antecedent basis for "the same articulation part as the pump unit," "the second interface" nor "the same articulation part as the cartridge unit." The claim is unclear with regard to any of the claimed structural connections.

In claims 5 and 11-13, the first instance of any abbreviation/acronym in the claims must be accompanied by its definition. In this regard, "SIM" has not been defined in the claim language. Also, the context of "its contact regions" is unclear, because "its" is not grammatically distinct. In addition, there is no clear and proper antecedent basis for "the regions of the SIM card." The claim is unclear with regard to any of the claimed structural connections.

In claim 6, there is no clear and proper antecedent basis for "said second interface," and the context of "its contact regions" is unclear, because "its" is not grammatically distinct. The claim is unclear with regard to any of the claimed structural connections.

Further in claims 5, 6 and 11-13, the phrase "precise contact" is deemed to be a phrase of degree, which has no clear metes and bounds. When a word of degree is used as a limitation, it is necessary to determine whether the specification provides some standard for measuring that degree. See *Seattle Box Company, Inc. V. Industrial Crating & Packing, Inc.*, 731 F.2d 818, 221 USPQ 568 (Fed. Cir. 1984). In this case, the specification does not enable one skilled in the art to reasonably establish what may be construed as being within the metes and bounds of the word of degree. Therefore, one of ordinary skill in the art would not be apprised as to the claimed invention's scope when the claims are read in light of the specification. See *Ex parte Oetiker*, 23 USPQ2d 1641.

The remainder of the claims are rejected as necessarily incorporating the above-noted ambiguities of their parent claims.

11. The following is a quotation of the appropriate paragraphs of 35 U.S.C. §102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

12. Claims 1, 2, 7, 8, 14 and 15 are rejected under 35 U.S.C. §102(b) as being clearly anticipated by Peterson et al. (U.S. Patent No. 5,935,099; cited by Applicant), which disclose a “menu driven reprogrammable drug pump [is] provided with a memory, such as flash memory, a display, a keyboard, and a communications port to allow a generic pump to be programmed with a desired pump application (therapy) program and patient specific settings. Programming and data transfer with another pump or a computer to and from the patient pump is by the communications port that allows local and/or remote communications with the pump. Flash memory stores the pump application program during use. Patient safety is provided by a cassette identification system, an occlusion detection system, and a latch/lock detection system” (the abstract). See, at least, Figs. 4-7, 9 and 10, with associated text).

13. The following is a quotation of 35 U.S.C. §103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

14. Claim 3 is rejected under 35 U.S.C. §103(a) as being unpatentable over Peterson et al. (U.S. Patent No. 5,935,099), as applied to claims 1 and 2 above, further in view of Fuchs (U.S. Patent Application Publication No. 2003/0052196; newly cited by Examiner).

Although Petereson et al. teach Applicant's invention substantially as instantly claimed, Peterson et al. do not specify that “the energy source is an accumulator, characterized in that the second interface (48) is equipped with means for recharging said accumulator,” as per the instant claim. In this regard, Fuchs teaches that a “dispenser 20 contains an electric energy supply 61 consisting of a battery or an accumulator, which can be recharged via the base station 50” (paragraph 32). It would have been obvious, to one having



ordinary skill in the art, at the time the instant invention was made, to utilize such a feature in the system of Peterson et al., because of the well-known cost savings associated with rechargeable power supplies.

15. Due to the ambiguities and confusion in claims 4-6, 9-13 and 16-20, no art has been applied thereto, see *In re Steele*, 49 CCPA 1295, 305 F.2d 859, 134 USPQ 292 (1962) and *In re Wilson*, 424 F.2d 1382, 165 USPQ 494 (CCPA 1970). The examiner will not speculate as to the intended meaning.

16. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. §103(a), Examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR §1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for Examiner to consider the applicability of 35 U.S.C. §103(c) and potential 35 U.S.C. §102(e), (f) or (g) prior art under 35 U.S.C. §103(a).

17. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. Applicant is advised to carefully review the cited art, as evidence of the state of the art, in preparation for responding to this Office action.

18. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maria N. Von Buhr whose telephone number is 571-272-3755. The examiner can normally be reached on M-F (9am-5pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leo Picard can be reached on 571-272-3749. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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